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7 Attorney for Matthew Wade Beasley

8 **UNITED STATES DISTRICT COURT**

9 **DISTRICT OF NEVADA**

10 UNITED STATES OF AMERICA, )  
11 Plaintiff, ) CASE NO: 2:22-mj-171-EJY  
12 vs. ) **MOTION TO WITHDRAW AS COUNSEL**  
13 MATTHEW WADE BEASLEY, ) **FOR DEFENDANT MATTHEW WADE**  
14 Defendant. ) **BEASLEY**  
15 )  
16 )

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17 COMES NOW, ROBERT M. DRASKOVICH, ESQ., counsel for MATTHEW WADE  
18 BEASLEY, and hereby moves to withdraw as counsel. This Motion is based upon the points  
19 and authorities contained herein.

20 Dated this 12<sup>th</sup> day of August, 2022.  
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22 Respectfully Submitted by:  
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24 */s/ Robert M. Draskovich*  
ROBERT M. DRASKOVICH, Esq.  
25 Nevada Bar No. 6275  
815 S. Casino Center Boulevard  
26 Las Vegas, Nevada 89101  
Counsel for Matthew Wade Beasley  
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## **MEMORANDUM OF POINTS AND AUTHORITIES**

Robert M. Draskovich seeks leave of Court to withdraw as counsel of record for Matthew Wade Beasley. It has become clear that there has been a breakdown in communication between Counsel and Defendant Matthew Wade Beasley and the relationship has been damaged beyond repair. The situation has deteriorated to the point that it is essential that Counsel be permitted to withdraw from the instant case. The instant matter is set for preliminary hearing examination on September 8, 2022.

## **ARGUMENT AND AUTHORITIES**

(b) No attorney may withdraw after appearing in a case except by leave of court after notice served on the affected client and opposing counsel.<sup>1</sup>

“An attorney may not, in the absence of the client's consent, withdraw from a case without justifiable cause.” Lovvorn v. Johnston, 118 F.2d 704, 706 (9th Cir. 1941). Where a court compels one charged with a serious crime to undergo a trial “with the assistance of an attorney with whom he has become embroiled in [an] irreconcilable conflict,” he is deprived of “effective assistance of any counsel whatsoever.” Daniels v. Woodford, 428 F.3d 1181, 1197 (9th Cir. 2005) (*citing* Brown v. Craven, 424 F.2d 1166, 1170 (9th Cir.1970)). A trial court's decision to release counsel is an exercise of its discretion. United States v. Williams, 717 F.2d 473 (9th Cir.1983) (*citing* Glavin v. United States, 396 F.2d 725, 726 (9th Cir.1968)). United States v. Driggers, CR06 173 N EJL, 2007 WL 1381800 (D. Idaho Jan. 29, 2007) aff'd, 319 F. App'x 665 (9th Cir. 2009).

<sup>1</sup> See also United States v. Curry, 6 How. 106, 47 U.S. 106, 111, 12 L.Ed. 363; Tripp v. Santa Rosa St. R.R., 144 U.S. 126, 12 S.Ct. 655, 36 L.Ed. 371; Davis v. Wakelee, 156 U.S. 680, 15 S.Ct. 555, 39 L.Ed. 578. (holding that an attorney for the defendant cannot withdraw from the case without the consent of the court.)

In determining whether new counsel is warranted the Court should consider: that counsel for Defendant has been engaged in series of discussions with the United States Attorney's Office concerning the instant case and a case that will be brought against the Defendant. Defendant has been informed of these discussions. Additionally, the Defendant has brought in co-counsel Garrett Ogata to assist in this case. *See* United States v. Smith, 282 F.3d 758, 764 (9th Cir. 2002); United States v. Corona-Garcia, 210 F.3d 973, 976 (9th Cir.2000); United States v. Mills, 597 F.2d 693, 700 (9th Cir.1979). United States v. Driggers, CR06 173 N EJL, 2007 WL 1381800 (D. Idaho Jan. 29, 2007) *aff'd*, 319 F. App'x 665 (9th Cir. 2009).

Here, Counsel moves to withdraw from the instant case. Notice of the instant Motion has been served on opposing counsel and upon Mr. Beasley. There is justifiable cause for Counsel to withdraw as the attorney-client relationship has been irreparably damaged and communication between Client and Counsel has broken down. Additionally, similar to Daniels and Brown, here Mr. Beasley would be severely prejudiced proceeding to trial with an attorney with whom he has an irreconcilable conflict.

## CONCLUSION

For the reasons stated above, Robert M. Draskovich, respectfully requests this Honorable Court allow him Withdraw as Counsel to Mr. Beasley and that this Honorable Court grant the instant Motion to Withdraw as Counsel.

DATED this 12<sup>th</sup> day of August, 2022.

Respectfully submitted,

/s/ Robert M. Draskovich  
ROBERT M. DRASKOVICH, Esq.  
Nevada Bar No. 6275  
815 S. Casino Center Boulevard  
Las Vegas, NV 89101  
*Counsel for Matthew Wade Beasley*

1                   **DECLARATION OF ROBERT M. DRASKOVICH, ESQ.**

2                   I, Robert M. Draskovich, do hereby declare and swear that the following is true and  
3 correct and of my personal knowledge and that if called upon to testify, could and would testify  
4 truthfully that:

5                   1. I am the attorney of record for Defendant Matthew Wade Beasley in the instant  
6 matter. I am licensed to practice law in the State of Nevada.

7                   2. My professional relationship with Mr. Beasley has deteriorated to the point that I now  
8 believe it is essential to withdraw.

9                   3. Counsel for Mr. Beasley has been engaged in a series of negotiation discussions with  
10 the United States Attorney's Office concerning the instant case and a case that will be brought  
11 against the Defendant in the future. Defendant has been informed of these discussions.

12                  4. The Defendant has brought in co-counsel Garrett Ogata to assist in this case.

13                  Executed this 12<sup>th</sup> day of August, 2022, under penalty of perjury under the laws of the  
14 United States of America.

15                  */s/ Robert M. Draskovich Esq.*

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1 UNITED STATES OF AMERICA, )  
2 Plaintiff, ) CASE NO: 2:22-mj-171-EJY  
3 vs. )  
4 MATTHEW WADE BEASLEY, )  
5 Defendant. )  
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I, Erika W. Magana, am employed in the County of Clark, State of Nevada. I am over the age of 18 and not a party to the within action; my business address is 815 S. Casino Center Boulevard, Las Vegas, Nevada 89101.

That on August 12, 2022, I served the foregoing documents described as Motion to Withdraw as Counsel in the above-entitled action by depositing in the United States Post Office in Las Vegas, NV and addressed as follows or through the CM/ECF system:

Daniel Schiess  
Assistant United States Attorney  
[dan.schiess@usdoj.gov](mailto:dan.schiess@usdoj.gov)

Matthew Wade Beasley #89679-509  
Nevada Southern Detention Center  
2190 Mesquite Avenue  
Pahrump, NV 89060

I declare under penalty of perjury that the foregoing is true and correct.

*/s/ Erika W. Magana*  
An Employee of The Draskovich Law Group

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8 **UNITED STATES DISTRICT COURT**

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10 UNITED STATES OF AMERICA, )  
11 Plaintiff, ) CASE NO: 2:22-mj-171-EJY  
12 vs. ) **ORDER ON MOTION TO WITHDRAW**  
13 MATTHEW WADE BEASLEY, ) **AS COUNSEL FOR DEFENDANT**  
14 Defendant. ) **MATTHEW WADE BEASLEY**  
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16 \_\_\_\_\_)

17 GOOD CAUSE APPEARING THEREFORE, IT IS HEREBY ORDERED that Robert  
18 M. Draskovich, Esq.'s Motion to Withdraw as Counsel for Defendant Matthew Wade Beasley be  
19 granted.

20 Dated: \_\_\_\_\_, 2022.

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22 UNITED STATES DISTRICT JUDGE  
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